

A deed or mortgage given to secure the payment of money cannot be objected to by a party, because of its not having been recorded.

may be granted in many cases where an action of waste will not lie. *Ibid.* If the plaintiff by his bill puts the title in issue, or if he states that he has brought an action at law to try the right, he may have an injunction to stay waste pending the suit or action. *Ibid.* Such an injunction does not restrain the defendant from cultivating or making any ordinary use of the land. A mere threat to commit waste is a sufficient foundation for an injunction before any waste has been done. *Ibid.*

C., the owner of a lot of ground and building, leased to A. who was to leave the premises at the end of his term in good condition. A. sub-leased to B. who, according to the allegations of C's bill asking for an injunction, had begun to tear away a part of the front of the building to put in a side door and to make various alterations. *Held*, that such acts constituted waste by materially injuring the building; that compensation at law was too remote and contingent and not equal to the urgency of the case, and that an injunction should be granted. *Baughner v. Crane*, 27 Md. 37. A lessor may by injunction prevent the lessee, or those claiming under him, from converting the demised premises to uses inconsistent with the terms of the lease and from committing waste by making material alterations. *Maddox v. White*, 4 Md. 72. Injunction to prevent a tenant from removing certain articles as alleged waste refused. *Gallagher v. Shipley*, 24 Md. 407. As to when a creditor seeking to sell real estate for the payment of debts may have an order restraining waste, see *Warfield v. Owens*, 4 Gill, 364; *Tessier v. Wyse*, 3 Bl. 29; *Williams' Case*, *Ibid.*, 186.

Where there is privity of title, as between tenants for life or years and the reversioner, it is not necessary for the plaintiff to show irreparable injury or destruction to the estate to entitle him to have the waste enjoined. But as between strangers or parties claiming adversely, there is no distinction between trespass and waste and in both cases the injury must be shown to be irreparable before an injunction will be granted. *George's Creek Co. v. Detmold*, 1 Md. Ch. 372. Where there is a controversy pending in equity involving the title to land, an injunction restraining waste upon it may be applied for by petition in the cause. *Green v. Keen*, 4 Md. 99. As to waste by a mortgagor, see *post*, sec. IV.

3. *Nuisance.* The criterion for determining whether an existing or threatened nuisance to a party's dwelling will be restrained, is whether the acts complained of does or will produce such a condition of things as, in the judgment of reasonable men, is naturally productive of actual physical discomfort to persons of ordinary sensibilities, and tastes, and as, in view of the circumstances of the case, is unreasonable and in derogation of the rights of the complainant. *Dittman v. Repp*, 50 Md. 516. Noise alone, if it be such as to produce actual physical discomfort to a person of ordinary sensibility, may create a nuisance and give a right to an action at law or an injunction, although such noise may result from the carrying on of a trade in a city. *Ibid.* If, in addition to the mere noise made by the working of machinery in the building of a brewer adjoining plaintiff's dwelling, there are strong vibratory motions which shake the dwelling and render it unfit for habitation, such a state of things is clearly a nuisance which will be restrained. *Ibid.*

If a manufacturing establishment be created in immediate proximity to dwellings and in its operation large volumes of smoke, offensive odors and noxious vapors are emitted, thereby materially affecting the comfort of the